

AMENDED IN ASSEMBLY AUGUST 7, 2008

AMENDED IN SENATE MAY 7, 2008

AMENDED IN SENATE MARCH 24, 2008

SENATE BILL

No. 1496

Introduced by Senator Ashburn

February 21, 2008

An act to amend Section 20398 of the Government Code, relating to public employees' retirement, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1496, as amended, Ashburn. Public Employees' Retirement System: member classifications.

Existing law classifies certain police officers, sheriff deputies, and firefighters who have responsibility for the direct supervision of state peace officer/firefighter personnel as state peace officer/firefighter members under the Public Employees' Retirement System (PERS). Employees classified as safety members under PERS, including state peace officer/firefighter members, are generally entitled to higher benefits and subject to higher contribution rates than employees classified as miscellaneous or general members. Member contributions to PERS are deposited in the Public Employees' Retirement Fund, a continuously appropriated fund.

This bill would instead provide that those peace officers and firefighters are classified as state peace officer/firefighter members if the majority of their duties consists of responsibility for the direct supervision of state peace officer/firefighter personnel, conducting investigations or audits of investigatory practices and other audits of, or in, the Department of Corrections and Rehabilitation, or the

administration of programs of an agency, department, or other organizational unit that is primarily responsible for active law enforcement or active firefighting/fire suppression, except as specified. The bill would define administration for these purposes. The bill would also include in that classification individuals hired prior to January 1, 2008 2009, who do not meet the criteria for this classification if those individuals have been continuously employed in positions that were deemed to come within the classification prior to January 1, 2008 2009. The bill would also require the Department of Personnel Administration to annually determine which classes meet these conditions and report its findings to the Legislature and to this system, to be effective July 1 of each year. The bill would prohibit an agency or department from designating ~~an employee~~ *a classification* as a state peace officer/firefighter member *classification* without prior approval from the Department of Personnel Administration. The bill would make an appropriation by increasing the amount of employee contributions to the Public Employees' Retirement Fund.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 20398 of the Government Code is
2 amended to read:
3 20398. "State peace officer/firefighter member" also includes:
4 (a) (1) State officers and employees designated as peace officers
5 as defined in Sections 830.1, 830.2, 830.3, 830.38, 830.4, and
6 830.5 of the Penal Code, or a firefighter whose principal duties
7 consist of active firefighting/fire suppression, who is either
8 excluded from the definition of state employee in subdivision (c)
9 of Section 3513 or is a nonelected officer or employee of the
10 executive branch of government who is not a member of the civil
11 service, if the majority of his or her duties consists of one of the
12 following:
13 (A) Responsibility for the direct supervision of state peace
14 officer/firefighter personnel specified in Sections 20391, 20392,
15 20393, and 20395.
16 (B) Conducting investigations or audits of investigatory practices
17 and other audits of, or in, the Department of Corrections and
18 Rehabilitation.

1 (C) Administration of programs of an agency, department, or
2 other organizational unit that is primarily responsible for active
3 law enforcement or active firefighting/fire suppression.

4 (2) For purposes of this subdivision, “administration” means
5 the actions of the employee designated as a peace officer/firefighter
6 member in a position that is in the direct chain of command over
7 an agency, department, or organizational unit in which the majority
8 of employees are state peace officer/firefighter members as
9 described in Section 20391, 20392, 20393, or 20395.

10 (b) “State peace officer/firefighter member” shall not include
11 persons whose primary responsibilities are limited to personnel
12 administration, budgeting, public affairs, data processing or
13 information technology, governmental relations, or legal support,
14 or administration or oversight of these responsibilities.

15 (c) “State peace officer/firefighter member” shall include
16 individuals hired prior to January 1, ~~2008~~ 2009, who do not meet
17 the criteria in subdivision (a) if those individuals have been
18 continuously employed in positions that were deemed to come
19 within the “state peace officer/firefighter member” classification
20 pursuant to this section prior to January 1, ~~2008~~ 2009.

21 (d) The Department of Personnel Administration shall annually
22 determine which classes meet the conditions described in this
23 section and are not classes specified in Sections 20391, 20392,
24 20393, and 20395, and report its findings to the Legislature and
25 to this system, to be effective July 1 of each year. An agency or
26 department shall not designate ~~an employee a classification as a~~
27 ~~state peace officer/firefighter member~~ “state peace
28 officer/firefighter member” classification pursuant to this section
29 without prior approval from the Department of Personnel
30 Administration.

31 (e) Members who are reclassified pursuant to this section may
32 file an irrevocable election to remain subject to their prior
33 retirement formula and the corresponding rate of contributions.
34 The Secretary of the Department of Corrections and Rehabilitation
35 may, upon appointment to that office on or after January 1, 1999,
36 file an irrevocable election to be subject to the industrial formula
37 and the corresponding rate of contributions. The elections shall be
38 filed within 90 days of notification by the board. Members who
39 so elect shall be subject to the reduced benefit factors specified in

- 1 Section 21353 or 21354.1, as applicable, only for the service
- 2 included in the federal system.

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